

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

ERIC LEE PUENTES,

Plaintiff,

vs.

BUTTE SILVERBOW DETENTION  
CENTER, et al.,

Defendants.

CV 19-00046-BU-BMM-KLD

FINDINGS AND RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE JUDGE

On October 10, 2019, this Court issued an Order finding that Mr. Puentes's claims as currently plead were insufficient to state a claim for relief and were subject to dismissal. Mr. Puentes was given an opportunity to file an amended complaint on or before November 8, 2019. (Doc. 6.) After a request from Mr. Puentes, the Court extended that deadline to January 10, 2020. (Doc. 9.) Mr. Puentes did not comply and has not filed an amended complaint.

Accordingly, for the reasons set forth in the Court's October 10, 2019 Order (Doc. 6), the Court finds that Mr. Puentes has failed to state a federal claim upon which relief may be granted, and therefore issues the following:

**RECOMMENDATIONS**

1. This matter should be DISMISSED for failure to state a federal claim.
2. The Clerk of Court should be directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil

Procedure.

3. The Clerk of Court should be directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.

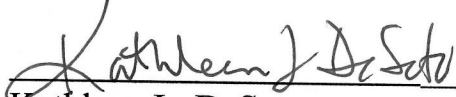
4. The Clerk of Court should be directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Mr. Cagey failed to state a claim upon which relief may be granted.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Mr. Puentes may file objections to these Findings and Recommendations within fourteen days after service (mailing) hereof. 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 14<sup>th</sup> day of February, 2020.

  
Kathleen L. DeSoto  
United States Magistrate Judge